GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Revenue (Disaster Management) Department–Andhra Pradesh Disaster Recovery Project (APDRP)– Credit No.5694-IN – Arbitration-Component 2.2 – Restoration of Major District Roads (MDR) – Roads and Buildings Department-Claims for 10 works– Full and final settlement of the Arbitration Awards- -Administrative Sanction – Rs 10,49,29,701/- (Rupees Ten Crores Forty Nine Lakhs Twenty Nine thousand Seven hundred and one only) - Orders – Issued.

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REVENUE (DISASTER MANAGEMENT.II) DEPARTMENT

G.O.Rt.No.64 **Dated:07.10.2022**

Read the following:-

1. Adjudicator, Sri U.Ch.Satyanarayana decision dated:21.11.2019 (2 works)
2. Adjudicators, Sri D. Sree Rama Murthy and U.Ch.Satyanarayana decision dated:29.10.2019(8 works)
3. Lr.No.02/HUDHUD/APDRP/DEE/AEE2/2019-20, Dt.05.11.2019 of Project Manager, PIU, R&B, APDRP, Visakhapatnam
4. Arbitration Tribunal written Award dated:18.06.2020 (10 works)
5. Lr.No.02/HUDHUD/APDRP/DEE/AEE2/2019-20, Dt.23.06.2020 of Project Manager, PIU, R&B, APDRP, Visakhapatnam
6. Lr.No.02/HUDHUD/APDRP/DEE/AEE2/2019-20, Dt.29.03.2021 of Project Manager, PIU, R&B, APDRP, Visakhapatnam
7. G.O.Ms.No.4, Revenue (DM) Department, dated.31.07.2022.

ORDER: -

The Andhra Pradesh Disaster Recovery Project was taken up by the Revenue (Disaster Management) Department, Government of Andhra Pradesh with the World Bank Loan (IDA Credit No:5694-IN) in the aftermath of HUDHUD cyclone in the four North coastal Districts of Andhra Pradesh. The original Project cost is Rs.2220.00 Cr and now revised to Rs. 1777.38 Cr.

2. Under the Project, works pertaining to Roads & Buildings Department were taken up based on the estimates approved. The estimates were approved inclusive of VAT before 01.07.2017 i.e., before introduction of GST as per the World Bank procurement guidelines.

3. As per the agreement, Contract price is to be adjusted if taxes, duties, and other levies are changed.

4. Subsequent to the bidding, the VAT(5%) was replaced by GST(12%) of Contract Value. The Contractors were insisting for the additional payment of 7%(GST- VAT) as per the agreement conditions mentioned at (3) above.

5. The Finance Department in the G.O.MS No.58 Finance (WR.I) Department dated 08-05-2018 have issued instructions for implementation of GST in works contracts concluded prior to or after 01-07-2017 with the SSR 2016-17 or prior SS Rates (wherein tax element is included).

6. The Project Manager, PIU, R&B has informed that there are ten(10) agreements covered by this issue as mentioned in the accompanying Annexure and all of them have gone for Adjudication as per the agreement provisions for payment of difference of GST and VAT by not accepting the procedure contained in G.O.MS.No.58 Finance (WR.I) Department dated 08-05-2018 for implementation of GST in works contracts.

(PTO)

7. The Adjudicator(s) have given decision to pay 7% to the work done value and interest 8% per annum from the date of cause of action till the date of payment on the above said amounts as additional to the contractors vide reference 1st and 2nd read above (i.e., the difference between GST and VAT).

8. Subsequently the Project Manager, PIU, R&B has approached the Arbitrators as per agreement, challenging the decision of Adjudicator(s). The Arbitration Tribunal on hearing both the parties has awarded to pay the difference of GST (12%) and VAT(5%) i.e., 7% along with interest at 8% per annum from date of cause to date of issuing Arbitration Award and at 8.75% interest from the date of Award to the date of payment to be made on or before 20-03-2021 vide reference 4th read above.

9. The GST Consultant appointed by the Andhra Pradesh Disaster Recovery Project (APDRP) has suggested vide his letter dated:03.11.2020 to appeal in the Court of Law or to go for amicable settlement through negotiations with the Claimants. The Government Pleader, Principal District Court, Visakhapatnam when approached to file an affidavit in the Hon'ble Court contesting the award passed by the Arbitrators, he has opinioned vide his letter dated:19.01.2021that the subject matter is not fit case to prefer appeal and it is no way covered by any ground as enumerated in Sec.34 of the Arbitration & Conciliation Act.

10. The Law Department in their legal opinion has advised that moving to the Court of Law may involve lot of pre-deposit of taxes and protracted litigation and advised to negotiate with the Contractors to consider a reasonable and amicable adjustment and the same is concurred by the Finance Department.

11. In light of the advice given by the Law Department the Project Manager, PIU, R&B has negotiated number of times with the Contractors who have agreed to forego all the interest amounts (Rs.1.79 Cr) and some rebate in the principal amount (Rs. 0.21 Cr), thus totalling to a rebate of Rs 2.00 Cr and accepted for an amount of Rs.10.49 Cr as against a total claim of Rs.12.49 Cr as on 20.02.2021.

12. The Implementation of Decision of Arbitrators in respect of 10 R&B works is placed before the 4th Stat e level Steering Committee Meeting held on 26-07-2021. The Committee has agreed for payment of the Arbitration Award to the Claimants for a negotiated amount of Rs.10,49,29,701/- (Rupees Ten Crores Forty Nine Lakhs Twenty Nine thousand Seven hundred and one only).

13. Government after careful examination hereby accord administrative sanction for Rs.10,49,29,701.00 (Rupees Ten Crores Forty Nine Lakhs Twenty Nine thousand Seven hundred and one only) under component 2.2 of Andhra Pradesh Disaster Recovery Project (APDRP).

14. The expenditure sanctioned vide para (13) above shall be debited to the following head of account: -

MH 4250 – Capital Outlay on other Social Services-
101 - Natural Calamities-
GH 03 – External Aided Projects-
SH(18) - Restoration of Major District Roads-(R&B dept under APDRP)
530 - Major Works
531 - Major Works

15. The Engineer-in-Chief (Admin.) R&B Department, A.P., Vijayawada shall take further action accordingly.

(Contd...3)

16. These orders issues with the Finance U.O.No. FMUOASD(REV)/126/2019 (Computer No. 917595) dated:21.09.2022.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.SAI PRASAD
SPECIAL CHIEF SECRETRY TO GOVERNMENT

To
The Engineer-in-Chief (Admin.) R&B Department, A.P., Vijayawada
The Managing Director, Andhra Pradesh State Disaster Management Authority, Kunchanapalli, Guntur District.
The Accountant General, Andhra Pradesh, Vijayawada.
The Director of Treasuries and Accounts, Amaravati.
The Director Works Accounts, A.P., Ibrahimpatnam, Vijayawada.
SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER